

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

CARL SELF ET AL.

Serial No.: 10/064,959

Filed: September 4, 2002

Group Art Unit: 3623

Examiner: Alison L. Karmelek

For: ONLINE METHOD AND SYSTEM FOR FACILITATING IMPROVEMENTS IN THE
CONSISTENCY, DELIVERABILITY AND/OR MEASURABILITY OF LAUNCH
PRACTICES

Attorney Docket No.: 81085447 (FMC 1413 PUS)

REPLY BRIEF UNDER 37 C.F.R. § 41.41

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Commissioner for Patents
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Sir:

This Reply Brief is in response to the Examiner's Answer mailed on August 6,
2008 for the above-identified patent application.

REPLY TO EXAMINER'S ANSWER

Claims 1-10, 19 and 20 Are Patentable Under 35 U.S.C. §101

The Examiner's Answer contains a new ground of rejection. Specifically, the Examiner now rejects claims 1-10, 19 and 20 under 35 U.S.C. §101 based on a memorandum to the Examining corps providing the Office's interpretation of Supreme Court precedent and recent Federal Circuit decisions. Appellants respectfully disagree not only with the Office's interpretation of the law, but also with the Examiner's application of the Office's interpretation.

In particular, the Examiner expresses that claims 1-10, 19 and 20 do not qualify as a §101 statutory process because they recite purely mental steps or "they may be performed within the human mind." (Examiner's Answer, p. 3.) To the contrary, claim 1 is directed to an "online method" that recites "transmitting the launch practice item to an at least one member of the second launch program team." It goes without saying that an online method includes, by definition, more than purely mental steps. Particularly, Appellants submit that the aforementioned transmitting step cannot be performed "within the human mind," and thus fails to recite a purely mental step.

Accordingly, Appellants respectfully request favorable reconsideration and reversal of the rejection of claim 1 and associated dependent claims under 35 U.S.C. §101 for at least the reasons set forth above. Dependent claims 2-10, 19 and 20 are also believed to recite patentable subject matter under 35 U.S.C. §101 for at least the same reasons as their respective base claims and further due to the additional features that they recite.

**Claim 5 Is Separately Patentable
Under 35 U.S.C. §101**

Claim 5 recites patentable subject matter based upon its dependency, indirectly, from claim 1. Claim 5 further recites the additional step of "updating an at least one server computer and notifying the at least one member of the second launch program team." It is unclear to Appellants precisely how the Examiner believes the step of "updating an at least one server computer" is performed within the human mind. Appellants submit that it cannot and, thus, claim 5 fails to recite a purely mental step. Therefore, claim 5 also qualifies as a §101 statutory process; the corresponding rejection of claim 5 under 35 U.S.C. §101 should be reversed.

Respectfully submitted,
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